

ESTTA Tracking number: **ESTTA572347**Filing date: **11/21/2013**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

**Opposer Information**

Name	The Christian Broadcasting Network, Inc.
Granted to Date of previous extension	01/01/2014
Address	977 Centerville Turnpike Virginia Beach, VA 23463 UNITED STATES
Correspondence information	Patrick J. Arnold Jr. McAndrews, Held & Malloy, Ltd. 500 W. Madison St. Ste. 3400 Chicago, IL 60661 UNITED STATES PARNOLD@mcandrews-ip.com

**Applicant Information**

Application No	85738567	Publication date	09/03/2013
Opposition Filing Date	11/21/2013	Opposition Period Ends	01/01/2014
Applicant	Dongtai City Spirulina Bio-Engineering Co., Ltd, Yongfenglin Ecologic Agriculture Garden Jiangsu Province, CNX CNX		

**Goods/Services Affected by Opposition**

Class 005. First Use: 2010/06/08 First Use In Commerce: 2010/06/08

All goods and services in the class are opposed, namely: Dietary supplements; Dietary supplements for human consumption; Nutritional supplement in the nature of a nutrient-dense, protein-based drink mix; Nutritional supplements; Nutritional supplements in the form of Micro-capsules; Powdered nutritional supplement concentrate; Powdered nutritional supplement drink mix; Powdered nutritional supplement drink mix and concentrate

**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

**Mark Cited by Opposer as Basis for Opposition**

U.S. Registration No.	1108225	Application Date	09/17/1975
Registration Date	12/05/1978	Foreign Priority	NONE

		Date	
Word Mark	CBN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 038. First use: First Use: 1961/10/01 First Use In Commerce: 1969/01/01 TELEVISION BROADCASTING SERVICES Class 041. First use: First Use: 1961/10/01 First Use In Commerce: 1969/01/01 ENTERTAINMENT SERVICES IN THE NATURE OFTELEVISED RELIGIOUS, EDUCATIONAL, NEWS AND VARIETY PROGRAMS		

Attachments	CBN v. Dongtai City Spirulina - Notice of Opposition - AS FILED.pdf(250146 bytes )
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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Overnight Courier on this date.

Signature	/Patrick J. Arnold Jr./
Name	Patrick J. Arnold Jr.
Date	11/21/2013

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

THE CHRISTIAN BROADCASTING  
NETWORK, INC.,

Opposer,

v.

DONGTAI CITY SPIRULINA  
BIO-ENGINEERING CO., LTD.,

Applicant.

Opposition No. \_\_\_\_\_

In re Application Ser. No.: 85/738,567

Mark: C.B.N. and Design

Filed: September 26, 2012

Published: September 3, 2013


**NOTICE OF OPPOSITION**

Opposer, The Christian Broadcasting Network, Inc. (“Opposer”), a corporation organized and existing under the laws of the Commonwealth of Virginia, having its principal place of business at 977 Centerville Turnpike, Virginia Beach, Virginia 23463, believes that it will be damaged by registration of the mark C.B.N. and Design, and hereby opposes the same pursuant to 15 U.S.C. § 1063 and 37 C.F.R. § 2.101(b).

The grounds for opposition are as follows:

1. Upon information and belief, Applicant, Dongtai City Spirulina Bio-Engineering Co., Ltd. (“Applicant”), is a limited liability company organized and existing under the laws of China, having a principal place of business at Yongfenglin Ecologic Agriculture Garden, Xincao Town, Dongtai City, Jiangsu Province, China.

2. Upon information and belief, Applicant’s current correspondence address is c/o Zhang Honglu, 1461 A First Avenue #360, New York, New York, 10021.

3. On or about September 26, 2012, Applicant filed Application Serial No. 85/738,567, pursuant to Section 1(a) of the Lanham Act, 15 U.S.C. § 1051(a), to register  ("Applicant's Mark") for use on or in connection with the following goods in International Class 5: Dietary supplements; Dietary supplements for human consumption; Nutritional supplement in the nature of a nutrient-dense, protein-based drink mix; Nutritional supplements; Nutritional supplements in the form of Micro-capsules; Powdered nutritional supplement concentrate; Powdered nutritional supplement drink mix; Powdered nutritional supplement drink mix and concentrate.

4. On or about September 3, 2013, Applicant's Mark was published for opposition. Opposer filed a request to extend the time to oppose until January 1, 2014, and the Board granted Opposer's request.

5. Opposer is engaged in the business of television broadcasting services and entertainment services in the nature of televised religious, educational, news and variety programs under the trademark CBN ("CBN mark"). Opposer began using the CBN mark for television broadcasting services and entertainment services in the nature of televised religious, educational, news and variety programs at least as early as October 1, 1961.

6. Opposer began using the CBN mark for television broadcasting services and entertainment services in the nature of televised religious, educational, news and variety programs in interstate commerce at least as early as January 1, 1969.

7. Opposer's use of the CBN mark in connection with the above-identified services has continued uninterrupted to date.


8. Opposer obtained U.S. Trademark Registration No. 1,108,225 for the CBN mark on December 5, 1978, for use on or in connection with "television broadcasting services" in

International Class 38 and “entertainment services in the nature of televised religious, educational, news and variety programs” in International Class 41. U.S. Trademark Registration No. 1,108,225 is incontestable.

9. In addition to the CBN mark, Opposer owns the following family of valid and subsisting U.S. Trademark registrations and applications that contain the term “CBN”:

<b>TRADEMARK</b>	<b>APPL. OR REG. NO.</b>	<b>APPL. OR REG. DATE</b>	<b>GOODS / SERVICES</b>
CBN	2,087,580	Aug. 12, 1997	Educational services, namely, seminars, workshops and conferences in the fields of Christian living, finances, marriages, [ veterans, and song writing ]; Christian evangelical ministerial services including outreach, counseling, and discipleship.
CBN WORLDREACH	2,200,212	Oct. 27, 1998	Christian evangelical ministerial services including outreach, counseling, and discipleship.
CBN NEWS	2,520,307	Dec. 18, 2001	Entertainment, namely, television news shows.
CBNRADIO	3,672,868	Aug. 25, 2009	Radio broadcasting.
CBN ESPAÑOL	3,691,267	Oct. 6, 2009	Entertainment services in the nature of ongoing Internet protocol television programs and programming in the context of Spanish culture and language.
CBN RADIO	3,799,169	June 8, 2010	Radio broadcasting.
CBN.COM	85/726,402	Sept. 11, 2012	Radio and television broadcasting services; video and audio broadcasting services via the Internet; electronic transmission, broadcasting and delivery of audio, video and multimedia entertainment content including text, images, audio, video and audiovisual files by means of the Internet, wireless communication, electronic communications networks and computer networks; Providing a website featuring information in the field of entertainment and

			music and current event news; Providing a website featuring information about religion, spiritual life, and worship.
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10. Opposer also has used a distinctive flame logo design with its CBN mark since at least as early as 1975, as follows: . For example, Opposer's website prominently displays the CBN.COM mark shown below, which features Opposer's distinctive flame logo design.



11. Opposer has invested a significant amount of time and money advertising and promoting the services provided in connection with its CBN mark over these many years. As a result, Opposer has built up a substantial amount of goodwill associated with that mark.

12. Opposer's news services provided under the CBN mark regularly feature information and news items on the topics of fitness, nutrition, and weight loss, which have featured, for example, materials on dietary supplements and formulas for dietary shakes. *See* [www.cbn.com/health/](http://www.cbn.com/health/). Opposer has also aired programs about nutrition and health on CBN's flagship television program.

13. Upon information and belief, Opposer's use of the CBN mark and of Opposer's distinctive flame logo design predates Applicant's use of Applicant's Mark in U.S. commerce.

14. Upon information and belief, Opposer's use in U.S. commerce of the CBN mark and of Opposer's distinctive flame logo design predates the date of first use anywhere of Applicant's Mark.

**COUNT I:**  
**LIKELIHOOD OF CONFUSION**

15. Opposer repeats and re-alleges each and every allegation set forth in Paragraphs 1 through 13 herein.

16. Applicant's Mark is substantially similar, if not identical, to the CBN mark in sight, sound, connotation, and commercial impression.

17. The design portion of Applicant's Mark is also substantially similar to CBN's distinctive flame logo design.

18. The goods identified in the Application for and/or in the Notice of Publication of Applicant's Mark are similar to the services provided by Opposer under its CBN mark.

19. The Board has already found in a different proceeding that the CBN mark is famous. *See The Christian Broad. Network, Inc. v. ABS-CBN Int'l*, 84 U.S.P.Q.2d 1560, 1567 (T.T.A.B. 2007) ("[The Christian Broadcasting Network] has established that the CBN mark is famous for television broadcasting services and evangelical services, and therefore is entitled to a wide scope of protection.").

20. Any defect in, objection to, or faults found in Applicant's goods marketed under Applicant's Mark would necessarily reflect upon and seriously injure the goodwill and reputation Opposer has established for its services over the last 52 years.

21. Registration of Applicant's Mark is likely to cause confusion, mistake, or deception as to the source of Applicant's goods and is likely to falsely suggest a common association, sponsorship, or origin of said goods between Applicant and Opposer.

**COUNT II:  
DILUTION**

22. Opposer repeats and re-alleges each and every allegation set forth in Paragraphs 1 through 21 herein.

23. Through Opposer's extensive advertisement and promotion and substantial sales, the CBN mark has become famous.

24. The Board already found in a different proceeding (in the context of analyzing likelihood of confusion) that the CBN mark is famous. *See The Christian Broad. Network, Inc. v. ABS-CBN Int'l*, 84 U.S.P.Q.2d 1560, 1567 (T.T.A.B. 2007) ("[The Christian Broadcasting Network] has established that the CBN mark is famous for television broadcasting services and evangelical services, and therefore is entitled to a wide scope of protection.").

25. Upon information and belief, any use by Applicant of Applicant's Mark has occurred many years after the CBN mark became famous.

26. Applicant's Mark is likely to blur and/or tarnish the positive associations with the CBN mark.

27. Therefore, if Applicant is permitted to register and use Applicant's Mark, it is likely to cause dilution of the distinctive quality of the CBN mark. As a result, Opposer will suffer irreparable damage and injury.

**RELIEF REQUESTED**

WHEREFORE, Opposer prays that the Board sustain this Opposition and refuse the registration of Applicant's Mark.

Dated: November 21, 2013



Respectfully submitted,

By /s/ Patrick J. Arnold Jr.

Patrick J. Arnold Jr.

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Attorneys for Opposer,

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**CERTIFICATE OF SERVICE**

It is hereby certified that on November 21, 2013, a true and complete copy of the foregoing NOTICE OF OPPOSITION was sent by overnight courier to Applicant at the correspondence address of record in the Patent and Trademark Office, as shown below:

Zhang Honglu  
1461 A First Avenue #360  
New York, New York 10021

/s/ Caroline A. Teichner\_\_\_\_\_